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**DOCKET NO.:** 2021-882  
**REGARDING:** **Lafayette City Planning & Zoning Commission**  
**Lafayette Parish Planning & Zoning Commission**  
**Lafayette Board of Zoning Adjustment**  
**ATTORNEY:** David Bordelon

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## **1. LAFAYETTE CITY PLANNING & ZONING COMMISSION**

### **Agency**

Pursuant to La. R.S. 42:1102(2)(a)(vi), the agency of an appointed member of the City Commission is limited to the City Commission.

### **Question 1**

Whether the Code would prohibit an appointed City Commission member from submitting an application for the subdivision or resubdivision of property in the City of Lafayette?

Generally, 1113B prohibits a City Commission member, an immediate family member, and a legal entity in which he has a substantial economic interest, from entering into, or being in any way interested in, a transaction that is under the supervision or jurisdiction of the City Commission. However, the provisions in 1123(34) provide a limited exception to allow a City Commission member, an immediate family member, or a legal entity in which he has a substantial economic interest, to submit, or be any way interested in, an application for subdivision or resubdivision of property to the City Commission, **provided that all requirements of 1123(34) are met.**

### **Question 2**

Whether the Code would prohibit an appointed City Commission member from applying for a zoning modification with the Board of Zoning Adjustment? You stated that the City Commission has no authority over zoning applications or the Board of Zoning Adjustment, as it is a separate entity of Lafayette Consolidated Government.

Section 1113B would not prohibit an appointed member of the City Commission from applying for a zoning modification with the Board of Zoning Adjustment, since that application is not under the supervision or jurisdiction of the City Commission.

### Question 3

Whether the Code would prohibit an appointed City Commission member from submitting an application to subdivide non-residential property located in the City of Lafayette?

The exception in 1123(34) expressly states that the subdivision, resubdivision, or zoning of such property **shall be for residential purposes only**. The 1123(34) exception would not apply in this situation. As a result, 1113B would prohibit an appointed member of the City Commission from submitting, or being any way interested in, an application to subdivide non-residential property to the City Commission.

### Question 4

Whether the Code would prohibit an appointed City Commission member from submitting applications involving more than twelve lots located in the City of Lafayette per calendar year?

The exception in 1123(34) expressly states that the application or applications submitted by or on behalf of the public servant, a member of his immediate family, or legal entity, collectively, shall be limited to the subdivision, resubdivision, or zoning of **not more than twelve lots per calendar year and the construction of not more than twelve residential units per calendar year**. The 1123(34) exception would not apply in this situation. As a result, 1113B would prohibit an appointed member of the City Commission from submitting, or being any way interested in, an application to subdivide any lots or units in excess of twelve per calendar year to the City Commission.

### Question 5

Whether the Code would prohibit an appointed City Commission member from applying for a building permit with the Permits and Codes Division within the Lafayette Community Development and Planning Department? The City Commission has no approval authority or supervision over building permits.

An appointed member of the City Commission would not be prohibited by 1113B from applying for building permits, since the building permits are not under the supervision or jurisdiction of the City Commission.

### Question 6

Whether the Code would prohibit an appointed City Commission member from entering into a contract with the City of Lafayette for engineering services related to a project that is not under the supervision or jurisdiction of the City Commission?

An appointed member of the City Commission would not be prohibited by 1113B from entering into a contract with the City of Lafayette for an engineering project that is not under the supervision or jurisdiction of the City Commission.

**Question 7**

Whether a prohibited transaction under 1113B would be cured by the recusal of the appointed City Commission member?

Recusal as to an application that does not meet the requirements of 1123(34) does not cure a potential violation of the Code.

**Question 8**

Whether the Code would require an appointed member of the City Commission to resign from their public position to avoid a potential violation of the Code?

The Code does not require resignation. Instead, an appointed member can choose not to undertake the conduct which would be a violation of the Code. However, if an appointed member of the City Commission chooses to resign in an attempt to prevent a potential violation of any provision of the Code, the post-employment restrictions of the Code will apply. We can provide an information sheet on the provisions. If a member has a question as to the application of these provisions to transactions with their former agency, they should seek an advisory opinion on the issue.

## **2. LAFAYETTE PARISH PLANNING & ZONING COMMISSION**

### **Agency**

Pursuant to La. R.S. 42:1102(2)(a)(vi), the agency of an appointed member of the Parish Commission is limited to the Parish Commission.

### **Question 1**

Whether the Code would prohibit an appointed Parish Commission member from submitting an application for the subdivision or resubdivision of property in Lafayette Parish?

Generally, 1113B prohibits a Parish Commission member, an immediate family member, and a legal entity in which he has a substantial economic interest, from entering into, or being in any way interested in a transaction that is under the supervision or jurisdiction of the Parish Commission. However, the provisions in 1123(34) provide a limited exception to allow a Parish Commission member, an immediate family member, or a legal entity in which he has a substantial economic interest, to submit, or be any way interested in, an application for subdivision or resubdivision of property to the Parish Commission, **provided that all requirements of 1123(34) are met.**

### **Question 2**

Whether the Code would prohibit an appointed Parish Commission member from applying for a zoning modification with the Board of Zoning Adjustment? You stated that the Parish Commission has no authority over zoning applications or the Board of Zoning Adjustment, as it is a separate entity of Lafayette Consolidated Government.

Section 1113B would not prohibit an appointed member of the Parish Commission from applying for a zoning modification with the Board of Zoning Adjustment, since that application is not under the supervision or jurisdiction of the Parish Commission.

### **Question 3**

Whether the Code would prohibit an appointed Parish Commission member from submitting an application to subdivide non-residential property located in Lafayette Parish?

The exception in 1123(34) expressly states that the subdivision, resubdivision, or zoning of such property **shall be for residential purposes only.** The 1123(34) exception would not apply in this situation. As a result, 1113B would prohibit an appointed member of the Parish Commission from submitting, or being any way interested in, an application for a less restrictive zoning of the original property. to the Parish Commission.

#### **Question 4**

Whether the Code would prohibit an appointed Parish Commission member from submitting applications involving more than twelve lots located in Lafayette Parish per calendar year?

The exception in 1123(34) expressly states that the application or applications submitted by or on behalf of the public servant, a member of his immediate family, or legal entity, collectively, shall be limited to the subdivision, resubdivision, or zoning of **not more than twelve lots per calendar year and the construction of not more than twelve residential units per calendar year**. The 1123(34) exception would not apply in this situation. As a result, 1113B would prohibit an appointed member of the City Commission from submitting, or being any way interested in, an application to subdivide any lots or units in excess of twelve per calendar year to the City Commission.

#### **Question 5**

Whether the Code would prohibit an appointed Parish Commission member from applying for a building permit with the Permits and Codes Division within the Lafayette Community Development and Planning Department? The Parish Commission has no approval authority or supervision over building permits.

An appointed member of the Parish Commission would not be prohibited by 1113B from applying for building permits, since the building permits are not under the supervision or jurisdiction of the Parish Commission.

#### **Question 6**

Whether the Code would prohibit a real estate development company, in which an appointed Parish Commission member is a part owner, from requesting approval of a preliminary plat for the development of commercial property in Lafayette Parish to the Parish Commission?

The exception in 1123(34) expressly states that the subdivision, resubdivision, or zoning of such property shall be for residential purposes only. The 1123(34) exception would not apply in this situation. As a result, 1113B would prohibit a company, in which an appointed member of the Parish Commission has a substantial economic interest, from submitting, or being any way interested in, an application for approval of a preliminary plat for the development of commercial property.

#### **Question 7**

Whether the Code would prohibit a real estate development company, in which an appointed Parish Commission member is a part owner, from requesting approval of a preliminary plat for the development or rezoning of commercial property in in the City of Lafayette to the Lafayette City Planning & Zoning Commission?

A company, in which an appointed member of the Parish Commission has a substantial economic interest, would not be prohibited by 1113B from applying for preliminary plat approval or rezoning of commercial property to the Lafayette City Planning & Zoning Commission as those transactions are not under the supervision or jurisdiction of the Parish Commission.

#### **Question 8**

Whether the Code would prohibit an appointed Parish Commission member from applying to the Board of Zoning Adjustment for a variance on commercial property located in the City of Lafayette? The Board of Zoning Adjustment is a separate entity from the Parish Commission.

An appointed member of the Parish Commission would not be prohibited by 1113B from applying for a variance on commercial property with the Board of Zoning Adjustment, as that transaction is not under the supervision or jurisdiction of the Parish Commission.

#### **Question 9**

Whether a prohibited transaction under 1113B would be cured by the recusal of the appointed Parish Commission member?

Recusal as to an application that does not meet the requirements of 1123(34) does not cure a potential violation of the Code.

#### **Question 10**

Whether the Code would require an appointed member of the Parish Commission to resign from their public position to avoid a potential violation of the Code?

The Code does not require resignation. Instead, an appointed member can choose not to undertake the conduct which would be a violation of the Code. However, if an appointed member of the Parish Commission chooses to resign in an attempt to prevent a potential violation of any provision of the Code, the post-employment restrictions of the Code will apply. We can provide an information sheet on the provisions. If a member has a question as to the application of these provisions to transactions with their former agency, they should seek an advisory opinion on the issue.

### 3. LAFAYETTE BOARD OF ZONING ADJUSTMENT

#### Agency

Pursuant to the La. R.S. 42:1102(2)(a)(vi), the agency of an appointed member of the Board of Zoning Adjustment is limited to the Board of Zoning Adjustment.

#### Question 1

Whether members of the Board of Zoning Adjustment would be prohibited by the Code from submitting an application for the subdivision and/or resubdivision of property?

Since applications for the subdivision and/or resubdivision of property are made to the respective City Commission or the Parish Commission depending on the location of the property, the appointed members of the Board of Zoning Adjustment are not prohibited by 1113B from submitting an application to either the City Commission or Planning Commission, since any such application is not under the supervision or jurisdiction of the Board of Zoning Adjustment.

#### Question 2

Whether the provisions of R.S. 42:1123(34) would provide an exception to the Code for an appointed member of the Board of Zoning Adjustment in the event the application for subdivision or resubdivision also requires a zoning adjustment or variance?

Generally, 1113B prohibits an appointed member of the Board of Zoning Adjustment from entering into, or being in any way interested in, an application for zoning adjustment or variance that is under the supervision or jurisdiction of the Board of Zoning Adjustment. However, in the event an appointed member of the Board of Zoning Adjustment submits an application for the subdivision or resubdivision of property that also requires a variance to be approved by the Board of Zoning Adjustment, **the exception in 1123(34) would allow the application, provided that all requirements of the exception are met, including that the subdivided property shall not be less restrictive than the zoning of the original parcel.**

#### Question 3

Whether the Code would prohibit an appointed member of the Board of Zoning Adjustment from applying for a variance on commercial property located in the City of Lafayette?

The exception in 1123(34) expressly states that the subdivision, resubdivision, or zoning of such property **shall be for residential purposes only**. The 1123(34) exception would not apply in this situation. As a result, 1113B would prohibit an appointed member of the Board of Zoning Adjustment from submitting, or being in any way interested in, an application for variance in zoning of commercial property to the Board of Zoning Adjustment.

#### **Question 4**

Whether a prohibited transaction under 1113B would be cured by the recusal of the appointed member of the Board of Zoning Adjustment?

Recusal as to an application for a variance that does not meet the requirements of 1123(34) does not cure a potential violation of the Code for appointed members of the Board of Zoning Adjustment.

#### **Question 5**

Whether the Code would require an appointed member of the Board of Zoning Adjustment to resign from their public position to avoid a potential violation of the Code?

The Code does not require resignation. Instead, an appointed member can choose not to undertake the conduct which would be a violation of the Code. However, if an appointed member of the Board of Zoning Adjustment chooses to resign in an attempt to prevent a potential violation of any provision of the Code, the post-employment restrictions of the Code will apply. We can provide an information sheet on the provisions. If a member has a question as to the application of these provisions to transactions with their former agency, they should seek an advisory opinion on the issue.